



United States
Department of
Agriculture

Food and
Nutrition
Service

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Alexandria, VA
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SUBJECT: Reissuance of Policy on Limited Disclosure of Children's Eligibility Information to Title I and the National Assessment of Educational Progress (NAEP)

TO: Regional Directors
Child Nutrition Programs
All Regions

Department of Education's Title I of the Elementary and Secondary Education Act and the NAEP are the two Federal education programs that request the use of children's free and reduced price meal eligibility information most frequently. We have issued several memoranda on the disclosure of children's eligibility information. This memorandum consolidates the policy relating to Title I and the NAEP.

The Healthy Meals for Healthy Americans Act of 1994, P.L. 103-448, amended Section 9(b)(2)(C) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1751(b)(2)(C)) to allow the disclosure of children's eligibility information, without parental consent, to certain persons and programs. Among these persons and programs are individuals directly connected with Federal education programs, such as Title I and the NAEP.

School food authorities may disclose, without parent/guardian consent, participants' names and eligibility status (whether they are eligible for free meals or free milk or reduced price meals) to persons *directly* connected with the administration or enforcement of Title I and the NAEP. Additionally, school food authorities may disclose participants' names and eligibility status to persons directly connected with the administration or enforcement of State educational assessment programs to the extent that the State assessment is part of the NAEP or the assessment program is established at the State, not local level. Other State education programs are also eligible to have access to participants' names and eligibility status, without parent/guardian consent, but the program must be established at the State, not local level.

The term "persons directly connected" for the purpose of disclosure to Title I or NAEP includes Federal, State and local program operators responsible for Title I or NAEP program administration or program compliance and their contractors. This does not imply that these persons have routine access to participants' eligibility status. There must be a "need to know" for legitimate Title I or NAEP purposes.

While not currently required, we recommend that school food authorities inform households if they plan to disclose or use eligibility information outside the originating program. We also recommend that the school food authority enter into a written agreement with Title I and NAEP officials. We suggest that the agreement be signed by both the school food authority and Title I and NEAP officials, as appropriate, that the agreement identify the entity receiving the information, describe the information to be disclosed and how it will be used, describe how the information will be protected from unauthorized uses and disclosures, and describe the penalties for unauthorized disclosure. Prior to developing State and local disclosure policies, we also recommend that State agencies and school food authorities discuss the disclosure provisions with their legal counsel.

Providing aggregate information that does not identify individuals continues to be permitted without consent. Additionally, any costs associated with the disclosure of information beyond that used for program purposes cannot be charged to the school food service account, except that incidental costs are acceptable. In accordance with the statute, school food authorities are not required to disclose eligibility information. This is a State and local decision.

For further information and guidance on the disclosure of children's eligibility information, please refer to our memorandum of December 7, 1998, Limited Disclosure of Children's Free and Reduced Price Eligibility Information (SP 99-3); (CACFP 99-2).

A handwritten signature in dark ink, appearing to read "Stanley C. Garnett". The signature is fluid and cursive, with the first name "Stanley" being more prominent.

STANLEY C. GARNETT
Director
Child Nutrition Division